

NOTICES OF RULEMAKING DOCKET OPENING

The Administrative Procedure Act (APA) requires the publication of Notices of Rulemaking Docket Opening when an agency opens a rulemaking docket to consider rulemaking. Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process.

NOTICE OF RULEMAKING DOCKET OPENING

DEPARTMENT OF ADMINISTRATION RISK MANAGEMENT SERVICES

[R08-379]

1. **Title and its heading:** 2, Administration
Chapter and its heading: 10, Department of Administration – Risk Management Services
Article and its heading: 4, Provider Indemnity Program (PIP)
Section numbers: R2-10-401 and R2-10-402 (Sections may be added, deleted, or modified as necessary.)
2. **The subject matter of the proposed rule:**
The purpose of this rulemaking is to address the issues identified in the previous Five-year Review Report approved by the Governor's Regulatory Review Council. The subject matter of the rulemaking establishes the coverage and limitations provided under the state's self-insurance for individual providers while caring for a state client and damage to their property or to third parties, caused by acts of clients.
3. **A citation to all published notices relating to the proceeding:**
None
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Julie Cruse, Administrative Manager
Address: Risk Management Division
Department of Administration
100 N. 15th Ave., Third Floor, Suite 301
Phoenix, AZ 85007
Telephone: (602) 542-1492
Fax: (602) 542-1473
E-mail: Julie.Cruse@azdoa.gov
or
Name: Rob Smook, Rules Administrator
Address: Department of Administration
1501 W. Madison St.
Phoenix, AZ 85007
Telephone: (602) 542-6161
Fax: (602) 542-3125
E-mail: Robert.Smook@azdoa.gov
5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**
Written comments will be accepted Monday through Friday from 8:00 a.m. and 5:00 p.m. at the location listed in item 4. The schedule for oral proceedings is to be determined and will be published in a future issue of the *Register*.
6. **A timetable for agency decisions or other action on the proceeding, if known:**
To be determined

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DEPARTMENT OF ADMINISTRATION
PUBLIC BUILDINGS MAINTENANCE

[R08-380]

1. **Title and its heading:** 2, Administration
Chapter and its heading: 11, Department of Administration – Public Buildings Maintenance
Article and its heading: 2, Traffic and Parking
Section numbers: R2-11-201 and R2-11-206 (Sections may be added, deleted, or modified as necessary.)
2. **The subject matter of the proposed rule:**
The purpose of this rulemaking is to address the issues identified in the previous Five-year Review Report approved by the Governor's Regulatory Review Council. The subject matter of R2-11-201 contains the definitions of terms and phrases used in Article 2. The subject matter of R2-11-206 details the penalties for violations under the Article.
3. **A citation to all published notices relating to the proceeding:**
None
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Andrew Staubitz, Commander
Address: Department of Administration
Capitol Police
1700 W. Washington St., B15
Phoenix, AZ 85007
Telephone: (602) 364-0399
Fax: (602) 542-0368
E-mail: Andrew.staubitz@azdoa.gov
or
Name: Rob Smook, Rules Administrator
Address: Department of Administration
1501 W. Madison St.
Phoenix, AZ 85007
Telephone: (602) 542-6161
Fax: (602) 542-3125
E-mail: Robert.Smook@azdoa.gov
5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**
Written comments will be accepted Monday through Friday from 8:00 a.m. and 5:00 p.m. at the location listed in item 4. The schedule for oral proceedings is to be determined and will be published in a future issue of the *Register*.
6. **A timetable for agency decisions or other action on the proceeding, if known:**
To be determined

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DEPARTMENT OF ADMINISTRATION
PUBLIC BUILDINGS MAINTENANCE

[R08-381]

1. **Title and its heading:** 2, Administration
Chapter and its heading: 11, Department of Administration – Public Buildings Maintenance
Article and its heading: 3, Solicitation and 4, Special Events
Section numbers: R2-11-301 through R2-11-311 and R2-11-401 through R2-11-409
(Sections may be added, deleted, or modified as necessary.)
2. **The subject matter of the proposed rule:**
The purpose of this rulemaking is to address the issues identified in the previous Five-year Review Report approved by the Governor's Regulatory Review Council. The subject matter of the Article 3 rules regulates the use of state

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property for solicitation of material. The subject matter of the Article 4 rules regulates the use of state property for special events. The Department is in the process of blending both articles together in addition to updating them.

3. A citation to all published notices relating to the proceeding:

None

4. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Barbara Pipkin, Administrative Manager
General Services Division

Address: Department of Administration
100 N. 15th Ave., Second Floor, Suite 202
Phoenix, AZ 85007

Telephone: (602) 542-1924

Fax: (602) 364-2501

E-mail: Barbara.pipkin@azdoa.gov

or

Name: Rob Smook, Rules Administrator

Address: Department of Administration
1501 W. Madison St.
Phoenix, AZ 85007

Telephone: (602) 542-6161

Fax: (602) 542-3125

E-mail: Robert.Smook@azdoa.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

Written comments will be accepted Monday through Friday from 8:00 a.m. and 5:00 p.m. at the location listed in item 4. The schedule for oral proceedings is to be determined and will be published in a future issue of the *Register*.

6. A timetable for agency decisions or other action on the proceeding, if known:

To be determined

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BOARD OF PHARMACY

[R08-372]

1. Title and its heading:

Chapter and its heading:

Articles and their headings:

Section numbers:

4, Professions and Occupations

23, Board of Pharmacy

4, Professional Practices

R4-23-422, R4-23-423 (Sections may be added, deleted, or modified as necessary.)

2. Subject matter of the proposed rule:

Recruiting members to serve on volunteer committees is always difficult. Busy healthcare providers are even more challenging to identify, and the shortage of healthcare providers in Arizona just adds to the difficulty. Finding qualified individuals who can attend meetings regularly has been almost impossible. For this reason, the Board proposes that the Drug Therapy Management Advisory Committee be eliminated. The use of a drug therapy management advisory committee does not afford any additional layer of protection to the public, as the supervising physician has final authority and responsibility over the actions of a pharmacist under a drug therapy management agreement. A Board staff pharmacist has been serving on the committee and will continue to review the initial and renewal drug therapy management agreement applications for the Board's approval. Section R4-23-422 (Drug Therapy Management - Duties of the Board) will be amended to remove the requirements that the Board appoint a Drug Therapy Management Advisory Committee and consult with the appointed committee in subsections (A)(1) and (2). Section R4-23-422 will be further amended by adding language in a new subsection (C) that requires the Board staff to review initial and renewal drug therapy management agreement applications and advise the Board regarding the approval or denial of reviewed drug therapy management agreement applications. Section R4-23-423 (Drug Therapy Management Advisory Committee) will be repealed. The rules will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council.

The agency docket number, if applicable:

R0814

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3. A citation to all published notices relating to the proceeding:

Notice of Rulemaking Docket Opening: 14 A.A.R. 34, January 4, 2008

Notice of Proposed Rulemaking: 14 A.A.R. 1487, May 2, 2008

Notice of Termination of Rulemaking: 14 A.A.R. 4308, November 21, 2008 (*in this issue*)

Notice of Proposed Rulemaking: 14 A.A.R. 4302, November 21, 2008 (*in this issue*)

4. Name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Dean Wright, Compliance Officer

Address: Board of Pharmacy
1700 W. Washington St., Suite 250
Phoenix, AZ 85007

Telephone: (602) 771-2727

Fax: (602) 771-2749

E-mail: dwright@azpharmacy.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

The Board will accept written comments Monday through Friday, 8:00 a.m. to 5:00 p.m. Oral comments may be made at the Board office Monday through Friday, 8:00 a.m. to 4:30 p.m.

Location: Board of Pharmacy
1700 W. Washington St., Suite 250
Phoenix, AZ 85007

Written and oral comments will be accepted until the close of record on a date and time as yet undetermined.

6. A timetable for agency decisions or other action in the proceeding:

Notice of Proposed Rulemaking: 14 A.A.R. 4302, November 21, 2008 (*in this issue*)

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BOARD OF PHARMACY

[R08-378]

1. Title and its heading:

4, Professions and Occupations

Chapter and its heading:

23, Board of Pharmacy

Articles and their headings:

10, Uniform Controlled Substances and Drug Offenses

Section numbers:

R4-23-1003 (Sections may be added, deleted, or modified as necessary.)

2. Subject matter of the proposed rule:

A Notice of Rulemaking Docket Opening was published on October 3, 2008 regarding proposed changes to the resident drug manufacturer rule. The rulemaking will amend R4-23-405 (Change of Responsibility), R4-23-604 (Resident Drug Manufacturer), and R4-23-616 (Mechanical Counting Device for a Drug in Solid, Oral Dosage Form). The Board staff has determined that R4-23-1003 (Records and Order Forms) was inadvertently left out of this rulemaking. With the publication of this rulemaking docket opening, R4-23-1003 (Records and Order Forms) will be amended to remove the requirement that a pharmacist-in-charge at a manufacturer must take a controlled substance inventory, because the 48th Legislature removed the statutory requirement that a manufacturer have a pharmacist-in-charge from A.R.S. § 32-1961(A) in 2007. The rule will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and the Governor's Regulatory Review Council.

The agency docket number, if applicable:

R0811b

3. A citation to all published notices relating to the proceeding:

Notice of Rulemaking Docket Opening: 14 A.A.R. 3810, October 3, 2008

4. Name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Dean Wright, Compliance Officer

Address: Board of Pharmacy
1700 W. Washington St., Suite 250
Phoenix, AZ 85007

Telephone: (602) 771-2727

Fax: (602) 771-2749

Notices of Rulemaking Docket Opening

E-mail: dwright@azpharmacy.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

The Board will accept written comments Monday through Friday, 8:00 a.m. to 5:00 p.m. Oral comments may be made at the Board office Monday through Friday, 8:00 a.m. to 4:30 p.m.

Location: Board of Pharmacy
1700 W. Washington St., Suite 250
Phoenix, AZ 85007

Written and oral comments will be accepted until the close of record on a date and time as yet undetermined.

6. A timetable for agency decisions or other action in the proceeding:

None

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BOARD OF PHYSICAL THERAPY

[R08-376]

- 1. Title and its heading:** 4, Professions and Occupations
Chapter and its heading: 24, Board of Physical Therapy
Article and its heading: 1, General Provisions; 2, Licensing Provisions; and 3, Practice of Physical Therapy
Section numbers: R4-24-101, Table 1, R4-24-301

2. The subject matter of the proposed rule:

The Board is updating material incorporated by reference, specifying in table form the time-frame for renewal of a license or certificate; and amending the rule regarding lawful practice to include information on patient consent to treatment.

3. A citation to all published notices relating to the proceeding:

None

4. Name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Heidi Herbst Paakkonen, Executive Director
Address: Board of Physical Therapy
4205 N. 7th Ave., Suite 208
Phoenix, AZ 85013
Telephone: (602) 274-0236
Fax: (602) 274-1378
E-mail: Heidi.herbst-paakkonen@ptboard.state.az.us

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

The Board will accept comments during business hours at the address listed in item 4. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.

6. A timetable for agency decisions or other action on the proceeding, if known:

To be determined

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STRUCTURAL PEST CONTROL COMMISSION

[R08-377]

- 1. Title and its heading:** 4, Professions and Occupations
Chapter and its heading: 29, Structural Pest Control Commission (Chapter name revision to: Office of Pest Management)
Article and its heading: 1, General and Administrative Provisions
Section numbers: R4-29-105

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2. The subject matter of the proposed rule:

The Office is increasing certain fees that licensees pay to obtain or renew a license. It is also increasing the fee that a licensee submits when filing a termite action report form (TARF). The increase in fees is necessitated by a fund sweep that the legislature put into the state's 2009 budget.

3. A citation to all published notices relating to the proceeding:

None

4. Name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Ellis Jones, Acting Director
Address: Office of Pest Management
9535 E. Doubletree Ranch Road
Scottsdale, AZ 85258
Telephone: (602) 255-3664
Fax: (602) 255-1281
E-mail: ejones@sb.state.az.us

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

The Office will accept comments during business hours at the address listed in item 4. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.

6. A timetable for agency decisions or other action on the proceeding, if known:

To be determined

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**DEPARTMENT OF HEALTH SERVICES
OCCUPATIONAL LICENSING**

[R08-383]

1. Title and its heading:

9, Health Services

Chapter and its heading:

16, Department of Health Services – Occupational Licensing

Article and its heading:

1, Licensing of Midwifery

Section numbers:

R9-16-101, R9-16-102, Exhibit B, Exhibit C, R9-16-103, R9-16-104, Exhibit D, R9-16-105, R9-16-105.01, Table 1, R9-16-105.02, and R9-16-111 (Sections may be added, deleted or modified as necessary.)

2. The subject matter of the proposed rules:

The Arizona Department of Health Services (Department) is revising its rules for the licensing and regulation of midwives consistent with the Five-year Review Report approved by the Governor's Regulatory Review Council on November 7, 2006.

The Department's revision of the midwifery rules will be done in two separate rulemakings. The first rulemaking revises the midwifery rules related to the licensing process, including continuing education and licensing actions and appeals. The second rulemaking will revise the midwife practice rules, R9-16-106 through R9-16-110.

The Department is proceeding with the first midwifery rulemaking.

This Notice of Rulemaking Docket Opening supersedes the Notices of Rulemaking Docket Opening listed in item 3.

The agency docket number:

RE-019-08

3. A citation to all published notices relating to the proceeding:

Notice of Rulemaking Docket Opening: 14 A.A.R. 3500, September 5, 2008

Notice of Rulemaking Docket Opening: 14 A.A.R. 3901, October 10, 2008

4. The name and address of agency personnel with whom persons may communicate regarding the rules:

Name: Rohno Geppert, Program Manager
Address: Department of Health Services
Division of Licensing Services
Office of Special Licensing
150 N. 18th Ave., Suite 460
Phoenix, AZ 85007
Telephone: (602) 364-2079

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Fax: (602) 364-4769
E-mail: gepperr@azdhs.gov
or
Name: Kathleen Phillips, Administrative Counsel and Rules Administrator
Address: Department of Health Services
Office of Administrative Counsel and Rules
1740 W. Adams St., Suite 200
Phoenix, AZ 85007
Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: phillik@azdhs.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

The Department will accept written comments at the addresses listed in item 4 until the close of record, which has not yet been determined. The oral proceeding schedule, at which the public may present oral comments, will be included in the Notice of Proposed Rulemaking.

6. A timetable for agency decisions or other action on the proceeding, if known:

The Department has not yet determined a timetable for submitting a Notice of Proposed Rulemaking.

NOTICE OF RULEMAKING DOCKET OPENING

DEPARTMENT OF WEIGHTS AND MEASURES

[R08-375]

- 1. Title and its heading:** 20, Commerce, Financial Institutions, and Insurance
Chapter and its heading: 2, Department of Weights and Measures
Article and its heading: 1, Administration and Procedures; 6, Registered Service Agencies and Representatives; and 9, Gasoline Vapor Control
Section numbers: R20-2-101, R20-2-102, R20-2-104, R20-2-601, and R20-2-901
(Sections may be added, deleted, or modified as necessary.)

2. The subject matter of the proposed rule:

In Article 1, the Department will increase metrology laboratory fees and update materials incorporated by reference. In Article 6, the Department will establish qualifications and duties for two classifications of vapor recovery registered service representatives. In Article 9, the Department will incorporate by reference additional vapor recovery test procedures.

3. A citation to all published notices relating to the proceeding:

None

4. Name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Duane Yantorno
Address: Department of Weights and Measures
4425 W. Olive Ave., Suite 134
Glendale, AZ 85302
Telephone: (602) 771-4933
Fax: (623) 939-7825
E-mail: Dyantorno@azdwm.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

The Department will accept comments during business hours at the address listed in item 4. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.

6. A timetable for agency decisions or other action on the proceeding, if known:

To be decided

Notices of Rulemaking Docket Opening

NOTICE OF RULEMAKING DOCKET OPENING

DEPARTMENT OF WEIGHTS AND MEASURES

[R08-374]

- 1. Title and its heading:** 20, Commerce, Financial Institutions, and Insurance
Chapter and its heading: 2, Department of Weights and Measures
Article and its heading: 7, Motor Fuels and Petroleum Products
Section numbers: R20-2-701, R20-2-702, R20-2-704, R20-2-707, R20-2-708, R20-2-709, R20-2-713, R20-2-714, R20-2-715, R20-2-718, R20-2-719, R20-2-751, R20-2-752, R20-2-755, R20-2-757, R20-2-759, Table A, R20-2-760, Table 1, and Table 2 (Sections may be added, deleted, or modified as necessary.)

2. The subject matter of the proposed rule:

In a rulemaking that was effective in September 2006, the effect of several subsections was contingent upon the State's Implementation Plan regarding CARB 3 and shortening the winter season to November 1 through January 31 being approved by the U.S. Environmental Protection Agency. Because EPA can not approve the SIP regarding CARB 3 and the shorter winter season, in this rulemaking the Department is:

- Deleting reference to a winter season that runs from November 1 through January 31. This will make the winter season run from November 1 through March 31; and
- Removing CARB (California Air Resources Board) phase 3 reformulated gasoline as an alternative standard for motor fuel in the CBG-covered area.

In this rulemaking, the Department is also:

- Responding to amendments made in 2007 to A.R.S. § 41-2083 regarding product transfer document requirements for a final destination and labeling requirements for dispensers at motor fuel dispensing sites;
- Responding to HB 2621, enacted in 2008, regarding biofuel standards and requirements;
- Modifying motor fuel standards for ethanol blending; and
- Updating materials incorporated by reference

3. A citation to all published notices relating to the proceeding:

None

4. Name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Duane Yantorno
Address: Department of Weights and Measures
4425 W. Olive Ave., Suite 134
Glendale, AZ 85302
Telephone: (602) 771-4933
Fax: (623) 939-7825
E-mail: Dyantorno@azdwm.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

The Department will accept comments during business hours at the address listed in item 4. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.

6. A timetable for agency decisions or other action on the proceeding, if known:

To be decided

NOTICE OF RULEMAKING DOCKET OPENING

DEPARTMENT OF INSURANCE

[M08-384]

- 1. Title and its heading:** 20, Commerce, Financial Institutions, and Insurance
Chapter and its heading: 6, Department of Insurance
Articles and their headings: 2, Transaction of Insurance
Section numbers: R20-6-214
2. Subject matter of the proposed rule:

The director will propose rulemaking action on Article 2 to amend R20-6-214.

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3. A citation to all published notices relating to the proceeding:

Notice of Proposed Rulemaking: 14 A.A.R. 4305, November 21, 2008 (*in this issue*)

4. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Margaret L. McClelland
Address: Department of Insurance
2910 N. 44th St., Suite 210
Phoenix, AZ 85018
Telephone: (602) 364-3471
Fax: (602) 364-3470
E-mail: mmcclelland@azinsurance.gov

5. The time during which written submission may be made and the time and place where oral comments may be made:

The Department will accept written comments during a public comment period that will be noticed in the publication of the proposed rulemaking. The Department will schedule an oral proceeding, within the statutorily mandated time-frame, to be noticed in the *Arizona Administrative Register*.

6. A timetable for agency decisions or other action in the proceeding:

Notice of Proposed Rulemaking: 14 A.A.R. 4305, November 21, 2008 (*in this issue*)